

**Key Retirement Re-employment and Part-time Benefit Provisions
of the Utah Code**

49-11-102. Definitions.

As used in this title:

- (1) (a) "Active member" means a member who is employed or who has been employed by a participating employer within the previous 120 days.
- (b) "Active member" does not include retirees.
- (4) (a) "Agency" means:
- (i) a department, division, agency, office, authority, commission, board, institution, or hospital of the state;
 - (ii) a county, municipality, school district, local district, or special service district;
 - (iii) a state college or university; or
 - (iv) any other participating employer.
- (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a subdivision of another entity listed under Subsection (4)(a).
- (5) "Allowance" or "retirement allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.
- (17) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's spouse after retirement that is based on a set formula involving one or more of the following factors:
- (a) years of service;
 - (b) final average monthly salary; or
 - (c) a retirement multiplier.
- (18) "Defined contribution" or "defined contribution plan" means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code and administered by the board.
- (38) "Retiree" means an individual who has qualified for an allowance under this title.
- (39) "Retirement" means the status of an individual who has become eligible, applies for, and is entitled to receive an allowance under this title.

Re-employment -- Agency definition
(see different agency

49-11-504. Reemployment of a retiree -- Restrictions.

- (1) A person who retires from a nonparticipating employer is not subject to any postretirement restrictions under this title.
- (2) A retiree of an agency who returns to work at a different agency is not subject to any postretirement restrictions under this section and may not earn additional service credit.
- (3) For the purposes of Subsections (4) and (5), "full-time" employment means

Different Agency Exemption

employment requiring 20 hours of work per week or more or at least a half-time teaching contract.

- (4) A retiree of an agency who is reemployed on a full-time basis by the same agency within six months of the date of retirement is subject to the following:

Within six-month restrictions

- (a) the agency shall immediately notify the office;
- (b) the office shall cancel the retiree's allowance and reinstate the retiree to active member status;
- (c) the allowance cancellation and reinstatement to active member status is effective on the first day of the month following the date of reemployment;
- (d) the reinstated retiree may not retire again with a recalculated benefit for a two-year period from the date of cancellation of the original allowance, and if the retiree retires again within the two-year period, the original allowance shall be resumed; and
- (e) a reinstated retiree retiring after the two-year period shall be credited with the service credit in the retiree's account at the time of the first retirement and from that time shall be treated as a member of a system, including the accrual of additional service credit, but subject to recalculation of the allowance under Subsection (9).

- (5) A retiree of an agency who is reemployed by the same agency within six months of retirement on a less than full-time basis by the same agency is subject to the following:

Within six-month exceptions for part-time

- (a) the retiree may earn, without penalty, compensation from that position which is not in excess of the exempt earnings permitted by Social Security;
- (b) if a retiree receives compensation in a calendar year in excess of the Social Security limitation, 25% of the allowance shall be suspended for the remainder of the six-month period;
- (c) the effective date of a suspension and reinstatement of an allowance shall be set by the office; and
- (d) any suspension of a retiree's allowance under this Subsection (5) shall be applied on a calendar year basis.

- (6) For six months immediately following retirement, the retiree and participating employer shall:

- (a) maintain an accurate record of gross earnings in employment;
- (b) report the gross earnings at least monthly to the office;
- (c) immediately notify the office in writing of any postretirement earnings under Subsection (4); and
- (d) immediately notify the office in writing whether postretirement earnings equal or exceed the exempt earnings under Subsection (5).

- (7) A retiree of an agency who is reemployed by the same agency after six months from the retirement date is not subject to any postretirement restrictions under this title and

After six-months exemption

93 may not earn additional service credit.

- 94 (8) (a) If a participating employer hires a nonexempt
95 retiree who may not earn additional service
96 credit under this section, the participating
97 employer shall contribute the same percentage
98 of a retiree's salary that the participating
99 employer would have been required to
100 contribute if the retiree were an active member,
101 up to the amount allowed by federal law.

401(k) same percentage
of salary requirement

- 102 (b) The contributions shall be paid to a retiree-designated:
103 (i) qualified defined contribution plan administered by the board, if the
104 participating employer participates in a qualified defined contribution plan
105 administered by the board; or
106 (ii) qualified defined contribution plan offered by the participating employer if
107 the participating employer does not participate in a qualified defined
108 contribution plan administered by the board.
109 (c) Notwithstanding the provisions of Subsection (8)(b), if an employer is not
110 participating in a qualified defined contribution plan administered by the board,
111 the employer may elect to pay the contributions to a nonqualified deferred
112 compensation plan administered by the board.

- 113 (9) Notwithstanding any other provision of this section, a retiree who has returned to work,
114 accrued additional service credit, and again retires shall have the retiree's allowance
115 recalculated using:

- 116 (a) the formula in effect at the date of the retiree's original retirement for all service
117 credit accrued prior to that date; and
118 (b) the formula in effect at the date of the subsequent retirement for all service
119 credit accrued between the first and subsequent retirement dates.

- 120 (10) This section does not apply to elected positions.

- 121 (11) The board may make rules to implement this section.

122
123 **49-14-203. Exemption of certain employees from coverage.**

- 124 (1) A public safety service employee serving as the Commissioner of Public Safety, or as
125 the elected or appointed sheriff or chief of police of a public safety organization, is
126 excluded from coverage under this system if that public safety service employee files
127 a formal written request seeking exemption.

- 128 (2) Except as provided in Subsection (3), the public safety service employee may not
129 continue employment with the same participating employer and receive an allowance
130 from the office based on public safety service at the same time.

- 131 (3) The Commissioner of Public Safety or an elected sheriff who is eligible to retire under
132 Section 49-14-401 may:

- 133 (a) retire from this system and receive an
134 allowance;

Retire in place exemption

- 135 (b) continue in the elected or appointed
136 position; and

- 137 (c) file for the exemption under Subsection (1).

138
139 **49-15-203. Exemption of certain employees from coverage.**

- 140 (1) A public safety service employee serving as the Commissioner of Public Safety, or as
141 the elected or appointed sheriff or chief of police of a public safety organization, is
142 excluded from coverage under this system if that public safety service employee files
143 a formal written request seeking exemption.
- 144 (2) Except as provided in Subsection (3), the public safety service employee may not
145 continue employment with the same participating employer and receive an allowance
146 from the office based on public safety service at the same time.
- 147 (3) The Commissioner of Public Safety, an elected sheriff, or an appointed chief of police
148 who is eligible to retire under Section
149 49-15-401 may:
- 150 (a) retire from this system and receive an Retire in place exemption
151 allowance;
- 152 (b) continue in the elected or appointed position; and
- 153 (c) file for the exemption under Subsection (1).
- 154

155 **49-13-102. Definitions.**

156 As used in this chapter:

- 157 (2) "Final average salary" means the amount computed by averaging the highest three
158 years of annual compensation preceding retirement subject to the following:
- 159 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
160 compensation in any one of the
161 years used may not exceed the
162 previous year's compensation Final average salary - inflation restriction
163 by more than 10% plus a
164 cost-of-living adjustment equal
165 to the decrease in the purchasing power of the dollar during the previous year,
166 as measured by a United States Bureau of Labor Statistics Consumer Price
167 Index average as determined by the board.
- 168 (b) In cases where the participating employer provides acceptable documentation
169 to the office, the limitation in Subsection (2)(a) may be exceeded if:
- 170 (i) the member has transferred from another agency; or
- 171 (ii) the member has been promoted to a new position.
- 172 (c) If the member retires more than six months from the date of termination of
173 employment and for purposes of computing the member's final average salary
174 only, the member is considered to have been in service at his last rate of pay
175 from the date of the termination of employment to the effective date of
176 retirement.
- 177 (4) (a) "Regular full-time employee" means an Full-time vs. part-time
employee definition
178 employee whose term of employment for a
179 participating employer contemplates
180 continued employment during a fiscal or
181 calendar year and whose employment
182 normally requires an average of 20 hours or
183 more per week, except as modified by the board, and who receives benefits
184 normally provided by the participating employer.
- 185 (b) "Regular full-time employee" includes:
- 186 (i) a teacher whose term of employment for a participating employer

187 contemplates continued employment during a school year and who
188 teaches half-time or more;
189 (ii) a classified school employee whose employment normally requires an
190 average of 20 hours per week or more for a participating employer,
191 regardless of benefits provided;
192 (iii) an officer, elective or appointive, who earns during the first full month of
193 the term of office \$500 or more, indexed as of January 1, 1990, as
194 provided in Section 49-13-407;
195 (iv) a faculty member or employee of an institution of higher education who
196 is considered full-time by that institution of higher education; and
197 (v) an individual who otherwise meets the definition of this Subsection (4)
198 who performs services for a participating employer through a
199 professional employer organization or similar arrangement.

200 (5) "System" means the Public Employees' Noncontributory Retirement System.

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